

Remarks

This is in response to the Office Action dated July 8, 2004. The Office Action rejected claims 1-3, 5, 6, 8, 9, 10, 12-15 and 18 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 5,831,662 to Payton ("Payton"). The Office Action also rejected claims 4, 7, 11, 16 and 17 under 35 U.S.C. §103(a) as being unpatentable over Payton in view of U.S. Patent Number 5,835,720 to Kermode et al. ("Kermode").

Claims 1-18 remain under consideration.

35 U.S.C. §102(b) Rejection:

The Office Action first rejects claims 1-3, 5, 6, 8, 9, 10, 12-15 and 18 under 35 U.S.C. §102(b) as being anticipated by Payton. In order for a claim to be anticipated under 35 U.S.C. 102, each and every limitation of the claim must be found either expressly or inherently in a single prior art reference. PIN/NIP, Inc. v. Platte Chem. Co., 304 F.3d 1235, 1243 (Fed. Cir. 2002). In the present case, Payton does not show each and every limitation of claims 1-18, as those claims have been amended. Therefore, Applicants request the withdrawal of the rejection under 35 U.S.C. 102(b).

In rejecting independent claims 1 and 18, the Office Action indicates that the element of "transmitting the receiving procedure to the client" as claimed in claims 1 and 18 is disclosed in Payton at column 4, lines 37-41. The cited portion of Payton teaches:

"Broadcasting the fragments in accordance with the sequencing pattern enables the local server to reassemble the signal within one time interval from the subscriber's request . . . and provides approximately the minimum average bandwidth . . ."

This portion of Payton merely teaches broadcasting the parts of a fragmented media stream – it does not disclose transmitting a receiving procedure to a client. Thus, the cited section of Payton does not teach that which it is cited for. However, a more precise teaching of Payton may be found at column 5, lines 18-20. That portion of Payton states:

"Alternately, [a] sequencing pattern could be transmitted to the local server 16 and used to extract the untagged fragments."

Thus, Payton teaches that a sequence of upcoming transmissions may be transmitted to a local server and used by that local server to extract fragments of a media stream according to the appropriate sequence. However, this differs from the teaching of the present invention as claimed. As clearly taught in the specification of the present invention at page 5, line 150 to page 6, line 156:

“[T]he server 150 constructs a stream merging pattern and . . . returns a schedule of arrival times for a plurality of . . . streams . . . referred to herein as a receiving procedure. Thereafter, the client 110 needs no further communication with the media server 150 and . . . can merely ‘listen’ to the identified multicast channel at the particular associated time periods represented in the receiving procedure.”

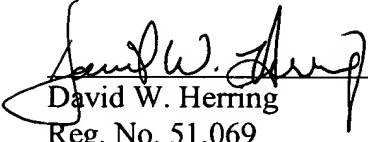
Thus, as taught by this passage of Payton, a time schedule is transmitted by the server to the client. Upon receipt of the time schedule, the client will tune to the appropriate channel at the appropriate time to receive the respective media stream. The term “receiving procedure” is clearly defined in the specification as meaning a schedule of arrival times of a plurality of streams across multicast channels. This differs from the teaching of Payton. At no place in Payton does that reference teach transmitting a time schedule to a client. Thus, Payton does not teach all the elements of claims 1 and 18. However, for clarity’s sake, applicants have amended claims 1 and 18 to explicitly claim that the receiving procedure of those claims comprises a time schedule associated with the transmission of a first portion of a media stream (claims 1 and 18). Additionally, applicants have amended independent claims 5, 9 and 13 to add the element of transmitting to a client a time schedule associated with the multicast transmission claimed in those claims.

Payton does not teach transmitting or obtaining a time schedule of transmissions as is claimed in amended claims 1, 5, 9, 13 and 18. Therefore, Payton does not teach all the elements of those claims and, it follows, does not anticipate those claims. Accordingly, independent claims 1, 5, 9, 13 and 18 are allowable. It follows that claims 2-4, 6-8, 10-12 and 14-17 are allowable as being dependent upon an allowable base claim.

No new matter has been added since the amendments to the claims are taught at least at the above-cited passage.

Allowance of all claims is requested.

Respectfully submitted,


David W. Herring
Reg. No. 51,069
Attorney for Applicant
Tel.: 973-533-1616

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AT&T Corp.
Room 2A-207
One AT&T Way
Bedminster, NJ 07921